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8
9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA
11

12 AUTOMOTIVE INDUSTRIES PENSION
TRUST FUND, AUTOMOTIVE
13 INDUSTRIES WELFARE TRUST FUND,
JAMES H. BENO, Trustee, BILL BRUNELLI,
14 Trustee, STEPHEN J. MACK, Trustee, CHRIS
CHRISTOPHERSEN, Trustee, DON
15 CROSATTO, Trustee, MARK HOLLIBUSH,
Trustee, JON ROSELLE, Trustee, DOUGLAS
16 CORNFORD, Trustee, and JAMES V.
CANTERBURY, Trustee,

17 Plaintiffs,

18 vs.

19 AARONS BODY SHOP, a California
20 corporation,

21 Defendant.
22

CASE NO.: CV 11-04381 LB

**STIPULATION FOR EXTENSION OF
TIME TO RESPOND TO COMPLAINT;
REQUEST TO CONTINUE CASE
MANAGEMENT CONFERENCE AND
[PROPOSED] ORDER**

23 Pursuant to Fed. R. Civ. P. Rule 6(b) and Civ. LR 6.1, Plaintiffs Automotive Industries
24 Pension Trust Fund, Automotive Industries Welfare Trust Fund, James H. Beno, Trustee, Bill
25 Brunelli, Trustee, Stephen J. Mack, Trustee, Chris Christophersen, Trustee, Don Crosatto, Trustee,
26 Mark Hollibush, Trustee, Jon Roselle, Trustee, Douglas Cornford, Trustee, and James V.
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1 Canterbury, Trustee (collectively "Plaintiffs"), and Defendant Aarons Body Shop, a California
2 corporation ("Aarons") hereby stipulate as follows:

3 1. Plaintiffs filed their Complaint in federal court on September 1, 2011 to compel
4 Defendant to pay contributions due for work performed by its employees during the months of
5 July 1, 2003 through September 30, 2007, and liquidated damages and interest thereon. (Dkt. #1)
6 Plaintiffs are trustees of the Automotive Industries Pension Trust Fund and the Automotive
7 Industries Welfare Trust Fund; Defendant Aaron is an employer who is required to make
8 contributions to the Trust Funds under a collective bargaining agreement. Plaintiffs' complaint is
9 based on an audit of Defendant's books and records that was conducted for the Trust Funds in or
10 about May 2009. The complaint had to be filed in September 2011 in order to ensure that there
11 would be no issue regarding the statute of limitations.

12 2. The parties opened settlement negotiations in October 2011. After the filing of the
13 Complaint, the employer withdrew from participation in the Pension Trust Fund, thus incurring
14 withdrawal liability.

15 3. Simultaneously, the Trustees conducted an exit audit of Defendant Aaron's books
16 and records for the period of October 1, 2008 through October 31, 2011 to determine all amounts
17 owing. That audit was completed in December 2011, and showed additional amounts due.

18 4. The parties wish to settle the delinquent contributions and the withdrawal liability
19 simultaneously so that defendants will know the entire amount owing at the time they settle. The
20 parties wish to have time to attempt a cooperative resolution before incurring the fees involved in
21 preparing for case management.

22 5. However, the amount of withdrawal liability has not yet been calculated by the
23 Plan actuary. Plaintiff's counsel has now been informed by the Plan actuary that the actuarial
24 pools needed for calculation of withdrawal liability will not be available until approximately
25 **September 2012**. At that time, withdrawal liability will be assessed and the parties will be able to
26 discuss universal settlement of all amounts owing. If necessary, plaintiffs will amend the current
27 complaint, or file a related action for collection of the withdrawal liability.

1 6. Thus, at the current time any ADR procedure would be premature since the parties
2 do not yet know the amounts owing for withdrawal liability.

3 7. Two prior extensions of time have been granted. (Dkt. #8, 9)

4 8. In the interest of minimizing costs as well as the Court's time and resources, the
5 parties would like to take the opportunity to determine the total amounts now owing and attempt a
6 settlement. Accordingly, the parties hereby request and stipulate that the Defendant Aaron shall
7 have until **December 1, 2012**, to respond to the Complaint.

8 5. Plaintiffs believe that the requested continuance would promote the interests of
9 judicial economy and fairness, and will help effectuate a just, speedy and inexpensive
10 determination of this action. *See* FED. R. CIV. P. 1.

11 8. The requested extension will modify the Court's Order docketed on February 6,
12 2012. The parties respectfully request that the Case Management Conference currently scheduled
13 for June 7, 2012, and all of its associated deadlines, be continued for 6 months to allow sufficient
14 time for the withdrawal liability assessment to be recalculated by the actuary. By allowing
15 sufficient time to complete the re-calculation, the parties intend to attempt to negotiate a global
16 settlement for all contributions and withdrawal liability amounts due, or for Defendant to respond
17 to the Complaint, and for the parties to hold the required "meet and confer" and ADR telephone
18 conference, and to prepare a CMC Statement in advance of the Case Management Conference.

19 Therefore, the Parties hereby stipulate that the Defendant Aaron shall have until December
20 1, 2012, to respond to the Complaint and that the Case Management Conference scheduled for
21 January __, 2013, and all of its associated deadlines, be continued for 6 months.

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23 Dated: May 17, 2012

SALTZMAN & JOHNSON LAW CORPORATION

24
25 By: _____/S/
26 JULIE A. OSTIL
27 Attorneys for Plaintiffs, AUTOMOTIVE
INDUSTRIES TRUST FUNDS, et al.

1 Dated: May 17, 2012

LAW OFFICES OF GEORGE KING

2
3 By: _____/S/
4 GEORGE KING
5 Attorneys for Defendant, AARONS BODY SHOP,
6 a California corporation
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8
9 ORDER

10 Based on the foregoing Stipulation of the parties, IT IS HEREBY ORDERED that
11 Defendant has until December 1, 2012 to file a response to the Complaint. The currently set Case
12 Management Conference is hereby continued to 1/31/2013 at 10:30 a.m. All related
13 deadlines are extended accordingly.

14 IT IS SO ORDERED.

15 Dated: 5/18/12

16 CLB
17 Honorable Laurel Beeler
18 UNITED STATES MAGISTRATE JUDGE
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